

- UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Courtyard.

5. The BRA is the City of Boston's Planning and Economic Development Agency. The BRA is charged with serving as planning staff to both the Zoning Commission and the Board of Appeal. BRA staff members review all applications for variances, conditional use permits and zoning changes and make recommendations to the Zoning Commission and Board of Appeal. Additionally, the BRA is charged by Article 80 of the Boston Zoning Code to review the design of real estate developments and their effect of the surrounding community and the City as a whole. Accordingly, the BRA has the ultimate authority to decide which commercial real estate construction projects will be permitted to proceed in the City of Boston.

6. In January 2002, Jiten submitted a letter of intent to the Boston Redevelopment Authority ("BRA") which commenced Large Project Review of the Jiten's Courtyard project under Article 80 of the Boston Zoning Code, which is one of the approval processes which must be completed prior to the issuance of any building permits related to the construction of the Courtyard. In May 2002, Jiten submitted a Project Notification Form (the "PNF") to the BRA. Notice of the filing of the PNF was duly published in the Boston Herald on May 20, 2002, which initiated the public comment period with a closing date of June 19, 2002. Pursuant to Section 80B-5.3 of the Boston Zoning Code, a scoping session was held on June 5, 2002 with the City of Boston's public agencies, at which point the Courtyard project was reviewed and discussed. Jiten conducted a public meeting for the community's review and comment at the Holiday Inn Express, 69 R. Boston Street, Boston, MA (the "Holiday Inn Express") on June 19, 2002. A Scoping Determination was issued by the BRA on August 21, 2002.

In March 2003, Jiten responded to the Scoping Determination by submitting a Draft Project Impact Report ("DPIR") to the BRA. Notice of the receipt of the DPIR was published in the Boston Herald on March 14, 2003, which initiated the public comment period with a closing date of April 14, 2003. Jiten conducted a public meeting for the community's review and comment on April 7, 2003 at the Holiday Inn Express. Following the closing date of the post-DPIR public comment period, on April 14, 2003, Jiten requested approvals from the BRA Board for the issuance of a Preliminary Adequacy Determination ("PAD") waiving further BRA review pursuant to Article 80B, Section 80B-5.4(c) of the Code, and for the issuance of a Certification of Completion under Section 80B-5.4(c) of the Code. However, Jiten's requests for a PAD and Certificate of Completion were not placed on the agenda for the BRA Board meetings occurring after April 14, 2003.

7. To determine why the BRA would not put the Courtyard project on the BRA Board's agenda, Jiten's Vice President Beth Scherer contacted the Mayor of the City of Brockton, Jack Yunitz, to arrange a meeting with the Mayor of Boston, Thomas Menino.

8. As a result of Ms. Scherer's meeting with Mayor Menino, Ms. Scherer and I met with the President of Local 26, Janice Loux to negotiate a card-check agreement. A member of the Board of Directors, Joseph Nigro, also attended this meeting. Mr. Nigro instructed us that if Jiten did not enter into a card-check agreement with the Union, the BRA would not grant Jiten the approval necessary to begin construction.

9 Because Jiten had invested approximately \$3,000,000.00 in the Courtyard project developing architectural plans and commissioning engineering and traffic studies

necessary to submit a proposal to the BRA and the card-check agreement was the final requirement necessary to obtain approval to begin construction, I signed the card-check agreement on Jiten's behalf on August 20, 2003.

10. Jiten would not have entered into the card-check agreement if it were not for the BRA's insistence on signing the card-check agreement as a requirement to obtain the approvals to build the Courtyard.

11. The day after Jiten executed the card check agreement, on August 21, 2003, the BRA voted to issue a PAD and Certificate of Completion necessary to begin construction on the Courtyard.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: Brockton, MA  
August \_\_, 2008

  
Nayan Patel